

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

MAGALI VEGA,

Civil Action File No.

Plaintiff,

v.

WALMART, INC. & REDDY ICE, LLC,

Defendants.

_____ /

NOTICE OF REMOVAL

COME NOW WALMART, INC. and REDDY ICE, LLC, named Defendants in the above-captioned matter, by and through their counsels of record, within the time prescribed by law, and file this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendants WALMART, INC. and REDDY ICE, LLC, in the Superior Court of Bartow County, Georgia, which is within the Rome Division of this Court 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. SUCV2022000309. Plaintiff's claim against Defendants includes claims of negligence.

2.

Plaintiff filed the Complaint on or about March 8, 2022. Defendants WALMART, INC. AND REDDY ICE, LLC received service of summons and copies of the Complaint on March 9, 2022. WALMART INC. and REDDY ICE, LLC filed their Answers on April 4, 2022. Defendants WALMART INC. and REDDY ICE, LLC file this removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant WALMART INC. is a Delaware corporation with its principal place of business in the State of Arkansas. Defendant WALMART INC. was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter. The principal place of business for WALMART INC. is 708 SW 8th Street, Bentonville, AR 72716.

4.

Defendant REDDY ICE, LLC is a limited liability company wholly owned by a Nevada corporation, Reddy Ice Corporation. REDDY ICE, LLC, has its principal place of business in the State of Texas. Defendant REDDY ICE, LLC was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter. The principal place of business for REDDY ICE, LLC is Dallas, Texas.

5.

Plaintiff Magali Vega is a citizen of the State of Georgia, residing at 20 Hedgrow Court, Cartersville, GA 30120.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims injuries to neck, mid-back, low back, left wrist, right knee and right ankle; past medical expenses of \$69,482.82 and plus lost wages; and has made a demand of \$175,000.00 settlement, (Exhibit "A"), thereby meeting the jurisdictional requirement for federal subject matter jurisdiction. See Lowery v. Alabama Power Co., 483 F.3d 1184, 1262 n.62 (11th Cir. 2007) (quoting 28 U.S.C. § 1446(b)); Addo v. Globe Life & Accident Ins. Co., 230 F.3d 759, 761–62 (5th Cir.2000); Williams v. Safeco Ins. Co., 74 F.Supp.2d 925, 929 (W.D.Mo.1999); Southern Ins. Co. of Virginia v. Karrer, Civil Action No. 3:10–CV–84 (CAR), 2011 Westlaw 1100030 (M.D.Ga. Mar. 22, 2011); Golden Apple Management Co. v. Geac Computers, Inc., 990 F.Supp. 1364, 1368 (M.D.Ala. 1998); Jackson v. Select Portfolio Servicing, 651 F.Supp.2d 1279, 1281 (S.D.Ala. 2009); Barlow v. Variety Wholesalers, Civil Action No. 5:14–CV–375 (WLS) (M.D.Ga. Dec. 17, 2014); Devezin v. Wal-Mart Stores East, LP, Civil Action No. 1:134–CV–3721 (CAP) (N.D.Ga February 20, 2015); Peterman v. Wal-Mart Stores, Civil Action No. 1:13–

cv-91 (WLS), 2013 Westlaw 5210188 (M.D.Ga. Sept. 13, 2013); Farley v. Variety Wholesalers, Civil Action No. 5:13-CV-52 (CAR), 2013 Westlaw 1748608 (M.D.Ga. April 23, 2013).

8.

Complaints alleging serious, lasting physical injuries are typically removable because it is facially apparent that these claims are worth more than \$75,000. Hickerson v. Enterprise Leasing Company of Georgia, LLC, 818 Fed.Appx. 880, 883 (11th Cir. 2020) (emphasis added) (citing Gebbia v. Wal-Mart Stores, Inc., 233 F.3d 880, 883 (5th Cir. 2000)(concluding that plaintiff's unspecified damages, including permanent disfigurement as well as pain and suffering, satisfied the facially apparent inquiry); Luckett v. Delta Airlines, Inc., 171 F.3d 295, 298 (5th Cir. 1999) (holding that plaintiff's alleged damages for property damage, travel expenses, an emergency ambulance trip, a stay in the hospital, and pain and suffering met the jurisdictional amount). Roe v. Michelin North America, Inc., 613 F.3d 1058 (11th Cir. 2010). Here, Plaintiff alleges serious, lasting physical injuries. Indeed, in Plaintiff's complaint, Plaintiff claims "serious bodily injury," (Complaint ¶¶ 24, 47) and that "substantial medical specials are no less than \$69,482.82 and plus lost wages." (Complaint ¶ 51)

9.

The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

10.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

11.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendants, including copies of all pleadings that have been filed to date in the Superior Court of Bartow County, Georgia for the above-styled case.

12.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

13.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

14.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the Superior Court of Bartow County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants WALMART INC. AND REDDY ICE, LLC pray that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Rome Division.

This the 5th day of April, 2022.

McLAIN & MERRITT, P.C.



Jennie E. Rogers
Georgia Bar No. 612725
Attorney for Defendant
WALMART, INC.

MCANGUS GOUDELOCK &
COURIE, LLC

/s/ Adam Ribock

Adam Ribock
Georgia Bar No. 881297
Attorney for Defendant
REDDY ICE, LLC

The undersigned counsel certifies that the foregoing **Notice of Removal** has been prepared with one of the font and point selections approved by the court in LR 5.1B.

A handwritten signature in black ink, appearing to read 'J. E. Rogers', written over a horizontal line.

Jennie E. Rogers

CERTIFICATE OF SERVICE

This is to certify that on April 5, 2022, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

A handwritten signature in black ink, appearing to read 'J. Rogers', written over a horizontal line.

Jennie E. Rogers
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